IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 650 OF 2005
In
SPECIAL CIVIL APPLICATION NO. 17905 OF 2003
With
CIVIL APPLICATION NO. 4087 OF 2005
In
LETTERS PATENT APPEAL NO. 650 OF 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BACHUBHAI M. RAJPURA - Appellant(s)

Versus

BHAVNAGAR SAHAKARI HAT MADHYASTHA BHANDAR LTD. - Respondent(s)

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Appearance :
MR. Y.V. SHAH for Appellant.
MR. H.S. MUNSHAW for Respondent .
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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

and

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 04/08/2005

COMMON ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. The appellant, being aggrieved by the Order dated 19th February, 2004 passed in Special Civil Application No.17905 of 2003 whereunder the interest was reduced from 12% to 6%, is before this Court with a complaint that the learned single Judge was absolutely unjustified in reducing the interest, especially, without assigning any reasons.

2. At the time of admission, number of other arguments were raised, but, we issued notice to the other side only on the question of interest *vide* our order dated 5th July, 2005.

3. Learned Counsel for the appellant submits that the learned single Judge was not justified in reducing the interest from 12% to 6%, especially, when the matter is pending consideration since 1988 and the appellant has been thrown from one Court to another Court and is running post to pillar. His submission is that the interest in the form of damages if was awarded by the Labour Court, then, the same could not be reduced.

4. Learned Counsel for the respondent, on the other hand, submitted that though it was within the jurisdiction of the learned single Judge, after taking into consideration the totality of the circumstances, to reduce the interest to a

reasonable extent, but, if this Court feels that the interest has been reduced to a lower rate, the Court may exercise its discretion and may enhance it to a reasonable rate.

5. After hearing both the sides and taking into consideration the totality of the circumstances, especially, the delay which has occasioned in all these years, and further that the present rate of interest, approved by the Reserve Bank of India on the term deposit, is 6.3% and further taking into consideration that the rate was comparatively higher in the earlier years, we think that 9% interest if awarded in favour of the appellant, the same would meet the ends of justice. It is accordingly ordered. The appeal is disposed of. Rule is made absolute.

6. Consequently, the Civil Application stands disposed of.

[***R.S.Garg, J.***]

[***Ravi R.Tripathi, J.***]

*kamlesh**